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EXHIBIT E

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DIVISION

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MIGUEL ORTEGA, BENJAMIN )  
ORTEGA, A Minor, By And Through His )  
Guardian Ad Litem, ANA ROSA ORTEGA, )  
Plaintiffs, )

vs. )

No. C 07-02659 JCS (ADR)

CITY OF OAKLAND, OAKLAND )  
POLICE DEPARTMENT, WAYNE )  
TUCKER, In His Capacity As The Police )  
Chief Of The City Of Oakland, RAMON J.)  
ALCANTAR, Individually And In His )  
Capacity As A Police Officer For The )  
City Of Oakland, Does 1 through 200, )  
Defendants. )

**CERTIFIED  
COPY**

DEPOSITION OF EDUARDO ORTEGA

OAKLAND, CALIFORNIA

TUESDAY, APRIL 22, 2008

REPORTED BY:

KAREN TAMIKO KOBAYASHI

CSR NO. 11657

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1 Q. Okay. And when the officer put Benjamin on  
2 the ground, how did Benjamin land on the ground? Did  
3 he land on his knees? Did he land flat on the ground?

4 A. Flat in the ground.

5 Q. Okay. And when Benjamin landed on the  
6 ground, what -- where was the officer?

7 A. On top of him.

8 Q. Okay. Was he -- was he laying on top of him?

9 A. Yeah. He was putting the handcuffs on top of  
10 him.

11 Q. Okay. So he -- the officer was on top of  
12 Benjamin, had his hands pulled behind his back?

13 A. Pulled with him, yeah.

14 Q. Okay. Could you hear what the officer --  
15 what that officer was saying to Benjamin?

16 A. No. I don't remember. I just remember  
17 Benjamin saying "Ahhh" -- scream.

18 Q. Okay.

19 A. And then Miguel was inside, like, "Leave my  
20 brother alone."

21 Q. Okay. So how far away from Benjamin were you  
22 when this happened, when the officer grabbed him and  
23 put him down?

24 A. A couple feet, uh-huh.

25 Q. Okay. And you then heard Miguel -- well,

1 strike that.

2 When the officer -- how was -- what position  
3 was the officer in when he put the handcuffs on  
4 Benjamin?

5 A. What position?

6 Q. Yeah. I mean, was he laying on him? Was he  
7 kneeling next to him? Was he kneeling on him? If you  
8 could describe --

9 A. He was, like, on top of him. He wasn't  
10 laying in the floor. He was putting the handcuffs on  
11 top of him.

12 Q. Okay. So he wasn't lying flat on his back on  
13 top of Benjamin -- on top of Benjamin's back?

14 A. I don't remember.

15 Q. Okay.

16 A. Maybe he got his kneecaps to put it like --  
17 but he was on top of Benjamin.

18 Q. Okay. Now, you said that you heard Miguel  
19 yell something like "Leave my brother alone" --

20 A. Yeah.

21 Q. -- or something like that. When you heard  
22 Miguel say that, do you know where he was at that  
23 point?

24 A. Miguel?

25 Q. Yeah.

1 A. He was inside the door. He --

2 Q. So he was still inside the house?

3 A. When he say that, he was like -- he was open,  
4 like, "Leave my brother alone." He open the door --

5 Q. Okay.

6 A. -- to go see, you know, the -- where he was  
7 to see his brother right there on the floor.

8 Q. Okay. So he said something like "Leave my  
9 brother alone." And he opened the door and started to  
10 come out of the house?

11 A. Yeah.

12 Q. Okay. And what did you observe happen at  
13 that point with Miguel?

14 A. A big officer grabbing like (indicating) --  
15 to the floor.

16 Q. Okay. So an officer grabbed Miguel?

17 A. Uh-huh.

18 Q. Where exactly was Miguel when the officer  
19 grabbed him, if you remember?

20 A. He was on the porch, like, coming down the  
21 stairwell -- in the stairs.

22 Q. So he was coming down the stairs of the front  
23 porch?

24 A. We can say like that.

25 Q. And how many steps are there?

1 A. I don't remember exactly the stairs, but like  
2 five or six.

3 Q. Okay. That's fair.

4 And when that officer -- do you know which  
5 officer it was that grabbed him?

6 A. (Witness shakes head.)

7 Q. Do you remember if it was the officer that  
8 had been in the car with the other officer that was at  
9 the corner?

10 A. I don't remember, really.

11 Q. Okay.

12 A. Because it was -- it was -- that officer was  
13 another big black tough officer.

14 Q. Okay.

15 A. And when he dropped Miguel, the black officer  
16 pulled the extension gun, the -- the -- the -- like  
17 to -- electric gun. Put like that to him  
18 (indicating).

19 Q. Okay. So it was a black officer that grabbed  
20 Miguel?

21 A. Like, I think -- really, I don't know the --  
22 like to answer your question --

23 Q. Uh-huh.

24 A. -- because everybody was too close. When  
25 I -- they grab -- I think the big black officer grab

1 him.

2 Q. Okay. And I'm sorry if I asked you this  
3 already. But how far away from -- well, how far away  
4 from you were -- how far away were you from where they  
5 grabbed Miguel?

6 A. Couple feet.

7 Q. Couple feet.

8 So you're fairly close?

9 A. Fairly close.

10 Q. Okay. And when they grabbed Miguel, this  
11 officer grabbed Miguel, what did they do with Miguel?

12 A. They grabbed Miguel. And then they put  
13 handcuffs. They put him in back of patrol car.

14 Q. Okay. Did they -- did Miguel -- did they  
15 knock Miguel to the ground?

16 A. Yeah.

17 Q. Okay. So they grabbed him and knocked him to  
18 the ground?

19 A. Yeah.

20 Q. Okay. And what did they do when they knocked  
21 Miguel to the ground?

22 A. They put -- they put the handcuffs, the --  
23 the plastic gun, the electric gun to right here  
24 (indicating).

25 Q. Okay.

1 A. And then they pick Miguel and take him to  
2 patrol car.

3 Q. Okay. So they put him -- so Miguel went to  
4 the ground. They cuffed him. They --

5 A. Cuff.

6 Q. -- put handcuffs on him while he was on the  
7 ground?

8 A. Uh-huh.

9 Q. Was -- what was Miguel doing while they were  
10 doing this?

11 A. Miguel?

12 Q. Yeah.

13 A. Nothing.

14 Q. Okay. And then you said this officer that  
15 grabbed him -- now, the officer that grabbed him, did  
16 you observe the officers put handcuffs on Miguel?

17 A. Yes.

18 Q. Okay. Do you remember -- was it -- which  
19 officer put handcuffs on Miguel? Was it the one that  
20 grabbed him?

21 A. I really don't remember.

22 Q. Okay. Now, you said an officer also put a  
23 taser gun.

24 A. Taser gun.

25 Q. Is that correct?



1 A. Yeah.

2 Q. To where did they put it on Miguel? What  
3 part of his body?

4 A. Right here back in the head (indicating). It  
5 was the big, tall guy -- black guy.

6 Q. So the -- was it the same officer that  
7 grabbed Miguel?

8 A. Uh-huh.

9 Q. Okay. So he put a taser to the back --

10 A. Taser.

11 Q. -- of his neck?

12 A. Yeah.

13 Q. Okay. Did you hear that officer say anything  
14 to Miguel?

15 A. Nah. I don't remember because I was talking  
16 to Guerrero, the other officer right there. Like, I  
17 was moving back. I was right there by the driveway.  
18 He's like couple feet when -- where the stairwell  
19 house, the front yard.

20 Q. Now -- okay. Going back to Benjamin then.  
21 So after the officers handcuffed him, what did they do  
22 with Benjamin?

23 A. Take him back to the police car.

24 Q. Okay. Could you hear Benjamin saying  
25 anything at this point?